

### REMARKS

In response to the Office Action mailed on December 22, 2004, Applicants cancelled claims 27-74, 76 and 77. Claims 1-26 and 75 are presented for examination.

The Examiner objected to the title and the abstract. Applicants amended the title and the abstract to obviate these objections, so the objections should be withdrawn.

The Examiner objected to the drawings for including certain reference characters (146, 606 and 136) that, in the Examiner's view, were not included in the application as originally filed. However, reference numeral 146 was disclosed in the application as originally filed at page 14, line 12, and reference number 136 was disclosed in the application as originally filed in several locations, including, for example, at page 12, line 30. Applicants amended figure 17 to remove reference numeral 606 and its corresponding layer. Therefore, this objection should be withdrawn.

The Examiner also objected to the drawings for failing to show every feature specified in the claims. In particular, the Examiner stated that the drawings failed to show a p-ohmic contact layer between the layer of p-doped material and layer of reflective material. But, this feature is shown, for example, in FIG. 16 and described, for example, in the application as originally filed at page 26, lines 17-25. In addition, the Examiner stated that the drawings failed to show embodiments in which the pattern extends beyond the first layer. Applicants added new FIGS. 20-22 to address this basis of the objection. In view of the foregoing, this objection should be withdrawn.

The Examiner rejected claims 1-26 and 75 under 35 U.S.C. § 112, second paragraph as being indefinite because of the use of certain terms in the claims. However, upon reading the applicant as originally filed, one skilled in the art would understand the meaning of each of these terms. The term "ideal lattice constant" is described, for example, in the application as originally filed at page 14, lines 8-24, and exemplary ideal patterns are described in several places in the application as originally filed. The term "substantially randomly detuned ideal pattern" is described, for example, at page 14, lines 22-28 of the application as originally filed. The phrase "the pattern is configured so that light emitted by the surface of the first layer has a spectrum of

radiation modes, and the spectrum of radiation modes is substantially the same as a characteristic emission spectrum of the light-generating region” would be readily understood by one skilled in the art in view of the description provided at, for example, page 13, lines 4-13 and page 16, line 29-page 17, line 8 of the application as originally filed. The term “the surface of the first layer has features with a size of less” is described, for example, at page 32, lines 5-7 of the application as originally filed. Accordingly, Applicants request reconsideration and withdrawal of the rejections under 35 U.S.C. § 112, second paragraph.

The Examiner provisionally rejected claims 1-26 and 75 under the doctrine of obviousness-type double patenting as being unpatentable over claims 1-90 of U.S. Patent 6,831,302. Applicants request that this provisional rejection be held in abeyance.

The Examiner rejected claims 1-5, 10-12, 14-25, and 75 under 35 U.S.C. § 103(a) as being unpatentable over, Razeghi (US 5,834,331) in view of Lester (US 6,091,085), and Ishikawa (US 6,426,515). In making this rejection, it appears that the Examiner relied on an interpretation of Ishikawa in which it is asserted that Ishikawa discloses a detuning parameter with a value greater than zero. However, the detuning referred to by Ishikawa is the detuning a lasing wavelength, as opposed to a detuning parameter for a pattern on the surface of layer.

Neither Razeghi, Lester nor Ishikawa, alone or in combination, disclose or suggest the light emitting devices covered by claims 1-5, 10-12, 14-25 and 75. Further, there is no suggestion to combine these references to provide such light emitting devices. Moreover, even if the references were combined, the result would not be the light emitting devices covered by these claims. Applicants therefore request reconsideration and withdrawal of the rejection of claims 1-5, 10-12, 14-25, and 75 under 35 U.S.C. § 103(a).

The Examiner rejected claim 26 under 35 U.S.C. § 103(a) as being unpatentable over, Razeghi (US 5,834,331) in view of Lester (US 6,091,085), Ishikawa (US 6,426,515), and Choi (2003/0222263). Here again, it appears that the Examiner relies on an interpretation of Ishikawa in which it is asserted that Ishikawa discloses a detuning parameter with a value greater than zero. But, as noted above, Ishikawa is referring to the detuning of a lasing wavelength, as opposed to a detuning parameter for a pattern on the surface of layer.

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Neither Razeghi, Lester, Ishikawa nor Choi, alone or in combination, disclose or suggest the light emitting devices covered by claim 26, and there is no suggestion to combine these references to provide such light emitting devices. In addition, even if the references were combined, the result would not be the light emitting devices covered by this claim. Applicants therefore request reconsideration and withdrawal of the rejection of claim 26 under 35 U.S.C. § 103(a).

Applicants believe the application is in condition for allowance, which action is requested.

Please apply any charges or credits to deposit account 06-1050.

Respectfully submitted,

Date: 2/7/05

  
Sean P. Daley  
Reg. No. 40,978

Fish & Richardson P.C.  
225 Franklin Street  
Boston, MA 02110-2804  
Telephone: (617) 542-5070  
Facsimile: (617) 542-8906

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Amendments to the Drawings:

Please substitute the enclosed 16 replacement sheets of formal drawings for the drawings presently in the application. The attached replacement sheets of formal drawings include changes to Figs. 14 and 17 as indicated in the annotated sheets of drawings that include Figs. 14 and 17. The attached replacement sheets of formal drawings also include newly added Figs. 20-22.

Attachments following last page of this Amendment:

Replacement Sheets (16 pages)  
Annotated Sheets Showing Changes (2 pages)

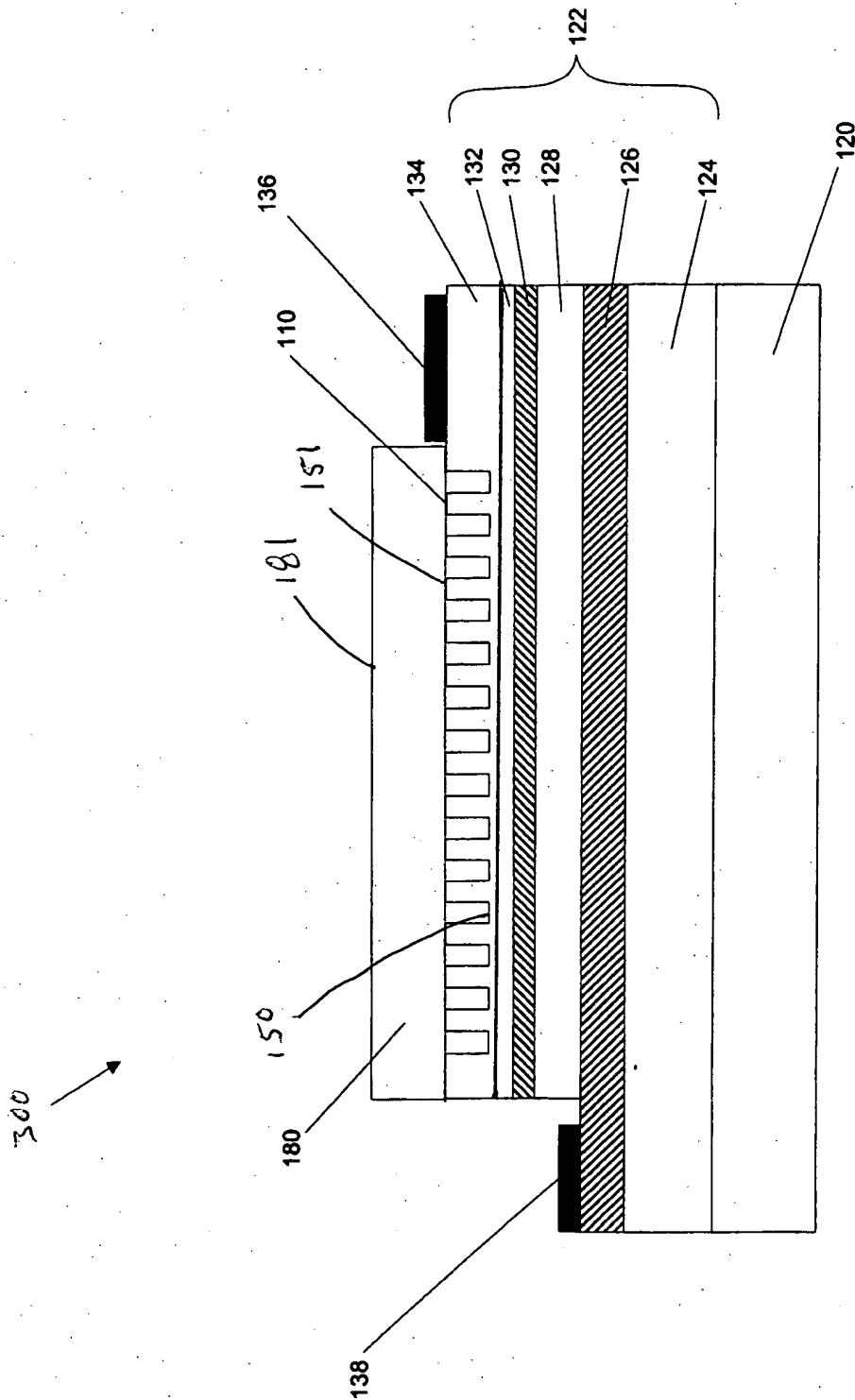
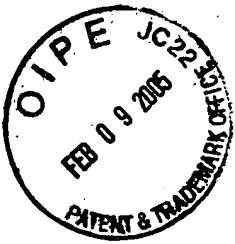


FIG. 14

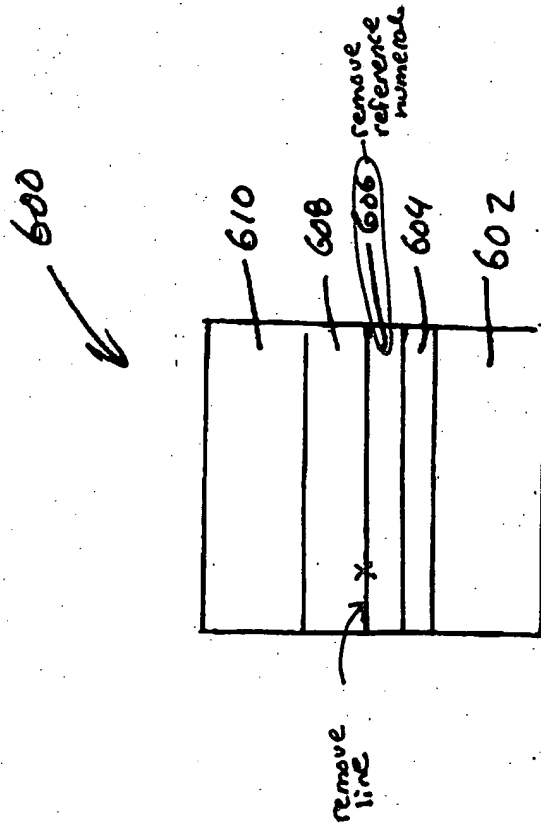


FIG 17